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FILED

March 14, 2005

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

JOSEPH D'AMICO, M.D.
LICENSE #MA 42143

: Administrative Action

CONSENT ORDER

TO PRACTICE MEDICINE AND SURGERY :
IN THE STATE OF NEW JERSEY

This matter was opened to the New Jersey Board of Medical Examiners upon receipt of information that Respondent entered into a Consent Agreement on January 27, 2003 with the State of Florida, Department of Health, Board of Medicine ("Florida Board") which agreement was approved and adopted in toto and incorporated with amendments set forth in the Final Order filed by the State of Florida, Board of Medicine on April 22, 2003. On or about November 25, 2002, the Florida Board filed an Administrative Complaint against Respondent alleging a violation of Section 458.331 (1)(t), Florida Statutes, by failing to practice medicine with that level of care, skill and treatment which is recognized by a reasonably prudent similar physician as

CERTIFIED TRUE COPY

being acceptable under similar conditions and circumstances regarding his care and treatment of Patient GM on November 12, 2001. It was further alleged that Respondent violated Section 458.331(1)(m), Florida Statutes, by failing to keep legible medical records that identify the licensed physician or the physician extender and supervising physician by name who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient. While Respondent neither admitted nor denied the allegations contained in the Administrative Complaint, he entered into a Stipulated Disposition, including a reprimand, payment of an administrative fine in the amount of \$10,000 and costs in the amount of \$2,301.54, completion of continuing medical education and 100 hours of community service.

Respondent voluntarily surrendered his Pennsylvania medical license on September 28, 2004 based on the Florida action, his desire not to be involved in administrative proceedings in Pennsylvania and the fact that he has not practiced medicine in Pennsylvania but rather in Florida for the past twenty (20) years.

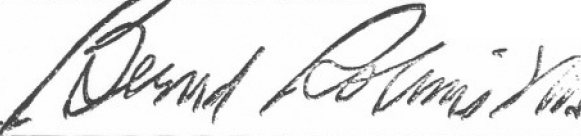
The parties being desirous of resolving this matter and the Board finding the within Order to be adequately protective of the public interest and for good cause shown,

IT IS, THEREFORE ON THIS 14th DAY OF MAR , 2005, HEREBY
ORDERED AND AGREED THAT:

1. The Respondent Joseph D'Amico, M.D. shall immediately surrender his license to practice medicine and surgery in the State of New Jersey with prejudice to seeking any future reinstatement thereof.

2. Respondent shall follow this Board's Directives for licensees Who Have Surrendered Their Licenses with Prejudice, a copy of which is attached hereto and made a part hereof.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By 

Bernard Robins, M.D., F.A.C.P.
Board President

I have read and understand
the contents of this Order
and agree to be bound by
its terms. Consent is hereby
given to the Board to enter
this Order.


Joseph D'Amico, M.D.

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED**

APPROVED BY THE BOARD ON MAY 10, 2000

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the Addendum to these Directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

1. Document Return and Agency Notification

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of

general circulation in the **geographic vicinity** in which **the practice** was conducted. At the **end of the three** month period, the licensee shall **file** with the Board the name and telephone number of the **contact person who will have access** to medical records of former patients. Any change in that **individual** or his/her **telephone number** shall be promptly reported to the **Board**. When a patient or his/her **representative** requests a copy of his/her **medical record** or **asks** that **record** be **forwarded** to another health care provider, the **licensee shall promptly provide the record** without charge to the patient.

5. Probation/Monitoring Conditions

With **respect** to any licensee who is the subject of **any Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part**, which is conditioned upon compliance with a **probation or monitoring requirement**, the licensee **shall** fully **cooperate** with the Board and its designated representatives, including the Enforcement Bureau of the **Division of Consumer Affairs**, in **ongoing** monitoring of the licensee's **status and practice**. Such monitoring **shall be** at the expense of the disciplined practitioner.

(a) Monitoring of **practice** conditions may include, but **is not limited to**, inspection of the **professional premises and equipment, and inspection and copying** of patient records (confidentiality of patient **identity** shall **be protected by the Board**) to **verify** compliance with the **Board Order and** accepted **standards of practice**.

(b) Monitoring of **status** conditions for an **impaired** practitioner may include, but **is not limited to**, practitioner cooperation **in providing releases** permitting unrestricted **access** to records and other information to the extent **permitted by law** from any treatment facility, other treating practitioner, **support** group or other individual/facility involved **in** the education, treatment, monitoring or oversight of the practitioner, or **maintained by** a rehabilitation program for **impaired** practitioners. If **bodily substance** monitoring **has been** ordered, the practitioner **shall** fully cooperate **by responding** to a **demand** for breath, **blood**, urine **or** other **sample** in a timely manner and **providing** the **designated sample**.

NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS

Pursuant to N.J.S.A. 52:14B-3(3), all Orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the Order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise restricts) a license,
- (2) Which censures, reprimands or places on probation,
- (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.